

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8892 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

TAVIYAD AMRUTABEN RAVJIBHAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8892 of 2002
MR ASIM J PANDYA for Petitioner No. 1-4
GOVERNMENT PLEADER for Respondent No. 1
MR SUNIL S JOSHI for Respondent No. 2
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CORAM : HON'BLE MR.JUSTICE A.L.DAVE

Date of decision: 01/04/2004

ORAL JUDGEMENT

The petitioners applied for the post of Vidhya
Sahayak C.P.Ed. category in the 3rd and 4th round and

according to them they were called upon to appear in the interview with original mark sheets. Thereafter they have not received any appointment up till now. Subsequently, advertisement was published inviting applications for recruitment of Vidhya Sahayak C.P.Ed. category in the 5th round and the petitioners did not apply pursuant to that advertisement hoping and anticipating that since they have been interviewed they would be given appointments in the 3rd and 4th round. However, since no development in that direction took place, they have approached this Court by this petition with following reliefs:

"(A) This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other writ, order or direction directing the respondents to issue appointment orders to the petitioners forthwith against the vacant posts of Vidhya Sahayak in C.P.Ed. category.

(B) Pending admission and final disposal of the present petition, this Hon'ble Court may be pleased to restrain the respondents, their agents, servants etc. from giving appointment orders to the posts of Vidhya Sahayak in C.P.Ed. category to the candidates who have applied for the posts of Vidhya Sahayak in sixth round.

(C) Ad interim relief in terms of paragraph 9(B) may be granted.

(D) This Hon'ble Court may be pleased to pass such other and further order in the interest of justice which may be deemed fit.

2. Initially on 4.9.2002 this Court directed to keep four posts of Vidhya Sahayak in C.P.Ed. category vacant. That direction appears to have been continued till 20.11.2002. Thereafter that direction seem to have been renewed.

3. The case of the petitioners is that because they were called for interview they hoped to be appointed and because of inaction on the part of the respondent, appointment letters were not issued. It is also contended that, the case of the respondents that because 5th round of recruitment has started, candidates of 3rd and 4th round recruitment procedure will have no right unless of course they have applied for the 5th round also, is not rational. It is also contended that 16

posts are vacant and there has been a recommendation for considering the case of such candidates from 3rd and 4th round from the District Panchayat Selection Committee.

4. The petition is opposed to by respondent No.3 by filing an affidavit. It is contended that the petition is based upon suppression of material facts as they have not indicated that the petitioner's name does not figure either in the select list or in the waiting list prepared in the 3rd and 4th round. It is specifically denied in the affidavit-in-reply that the original marksheets and certificates were retained by respondent No.2. It is submitted that the petitioners have never given any application for getting the said documents back for which respondent cannot be faulted. It is also contended that mere calling the petitioners for interview would not confer any right on them to be appointed. Under the circumstances, it is contended that the petition may be dismissed.

5. Learned advocate Mr.Pandya for the petitioner and learned AGP Mr. Gohel for the respondent State have been heard. Mr. Sunil Joshi appears for the District Primary Education Officer. The learned advocates have reiterated the grounds emerging from either the petition or the affidavit-in-reply.

6. Having regard to the contentions raised before this Court it has to be observed that the petitioners are not able to indicate nor are they even able to suggest that they were selected in the 3rd/4th round of recruitment of Vidhya Sahayak of C.P.Ed. category. Simply because they were required to appear with their original certificates for interview would not mean that they were amongst the successful candidates and therefore, petitioners have no right which they can assert and expect this Court to exercise its writ jurisdiction for protecting such right. The petitioners did not apply for the 5th round of recruitment of their own, may be under a wrong premise that because they were called for interview, they would be given appointment. It is a mistaken belief on the part of the petitioners for which they may have to suffer, but Court cannot exercise its powers to rectify the error of the petitioners. The contention that four posts are still vacant pursuant to direction granted by this Court, initially may not help petitioner in any manner in light of the fact that the protection expired on 20.11.2002, because, thereafter, it has not been extended. It cannot help the petitioners from a different angle also since the petitioners name does not figure either in the select

list or in the waiting list. Leave aside the question, even if their names figured there, they would not have any right to be appointed. The prayer sought for in the petition, therefore, cannot be granted. The petition must fail, same is dismissed. Notice discharged. No costs.

7. The petition shall be segregated from Special Civil Application No. 1365 of 2003.

(A.L.Dave, J)
Jayanti*